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The Attorney General contracts with State prisons, local jails, and halfway houses to house individuals who are awaiting trial for a Federal offense, serving short-term Federal sentences, or being transported between Federal facilities. Non-Federal facilities are also used to relieve overcrowding in Federal institutions, offer protection to Federal offenders in danger in Federal institutions, keep individuals near their homes, and provide programs not generally available in Federal institutions. Findings/Conclusions: Housing Federal Prisoners in non-Federal facilities is becoming more difficult and costly. Many local jails, due to overcrowding and deteriorating conditions, do not have sufficient space for Federal offenders. Four alternatives for solving the local jail problem are: contracting with other available jails in the surrounding area and transporting prisoners as necessary, building and operating Federal facilities, providing some type of Federal assistance to local jails to expand and improve their facilities, and using excess or underused military correction facilities. The Bureau of Prisons' past contracting practices with local jails and halfway houses did not follow Federal Procurement Regulations. The regulations were inconsistently applied, causing some contractors to be overpaid and some underpaid. Recommendations: The Attorney General should determine the most economical, long-range solution for each major metropolitan problem area by: determining whether smaller Federal facilities could be economically built and operated, investigating the possible use of excess and underutilized military correction facilities, and identifying instances where the situation could be alleviated through increased Federal assistance. The Attorney General should insure that contracting personnel use contractor cost data when negotiating contracts for the care of prisoners and should adopt a revised billing practice for contractors. (RBS)

5507

REPORT TO THE CONGRESS



*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

Housing Federal Prisoners In Non-Federal Facilities Is Becoming More Difficult

The Bureau of Prisons faces problems in finding and contracting for sufficient and suitable space for Federal prisoners detained in non-Federal institutions.

This report discusses contracting practices and alternative solutions to the jail space problem.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-133223

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses problems faced by the Bureau of Prisons in finding and contracting for sufficient and suitable space for Federal prisoners not detained in Federal institutions and describes actions which have been and could be taken to find alternative solutions.

We made this review because housing Federal prisoners in non-Federal facilities is becoming more difficult due to overcrowding and poor conditions in many of those facilities. It was done pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Attorney General; and the Chairmen of the House and Senate Committees on the Judiciary, the House Committee on Appropriations, and the Subcommittee on State, Justice, Commerce, and the Judiciary of the Senate Committee on Appropriations.

A handwritten signature in black ink, appearing to read "James B. Beards".

Comptroller General
of the United States

D I G E S T

Non-Federal facilities housed an average of 5,000 Federal prisoners a day in fiscal year 1976 at a cost of about \$24.6 million. These prisoners were

- awaiting trial,
- serving short-term sentences, or
- staying for other reasons, including overcrowding in Federal institutions.

However, State and local institutions have also become overcrowded and inadequate. As a result, finding housing for Federal prisoners is becoming more difficult.

Four alternatives for solving the local jail problem are:

- Contracting with other available jails in the surrounding area and transporting prisoners as necessary.
- Building and operating Federal facilities.
- Providing some type of Federal assistance to local jails to expand and improve their facilities.
- Using excess or underutilized military correction facilities that are or may become available.

In the past, the Bureau of Prisons usually obtained needed space by contracting with jails outside the area in which it was needed. Although this alternative increases cost and inconvenience to transport prisoners, it is reasonable and may not be as costly as building Federal facilities.

Building smaller Federal facilities would alleviate the housing problem, but the Bureau of Prisons would first have to decide whether

it could build them economically. (See p. 9.)

In March 1977 the Department of Justice adopted a public policy emphasizing increased Federal assistance to local jails and opposed building additional Federal facilities. The Department has established a Task Force on Corrections to develop a strategy for Federal assistance. One type of assistance could be Federal and local joint ventures in metropolitan areas having the greatest Federal need for space. The proposed Corrections Construction and Program Development Act of 1977 could provide some of the needed funds. Also, correction facilities which are not needed by the military might be used to help solve the housing problem.

GAO recommends that the Attorney General determine the most economical, long-range solution for each major metropolitan problem area by (1) determining whether smaller Federal facilities could be economically built and operated, (2) investigating the possible use of excess and underutilized military correction facilities, and (3) identifying instances where the situation could be alleviated through increased Federal assistance. The Department of Justice generally agreed with our conclusions and recommendations. (See app. I.)

Also, GAO recommends that the proposed Corrections Construction and Program Development Act of 1977, or similar legislation that may be introduced in the future, include incentives for the swift completion of projects in metropolitan areas where the need for Federal prisoner space is greatest.

CONTRACTING PRACTICES NEED IMPROVEMENT

The Bureau's past contracting practices with local jails and halfway houses did not follow Federal Procurement Regulations. In addition, the regulations were inconsistently applied, causing some contractors to be overpaid and some underpaid. The Bureau also had not properly defined how negotiated contract rates were to be applied. Nationwide, excessive

charges could amount to as much as \$1 million annually. (See ch. 3.)

GAO recommends that the Attorney General insure that contracting personnel use contractor cost data when negotiating contracts for the care of Federal prisoners and that he adopt a revised billing practice for contractors. The Department of Justice concurred. (See app. I.)

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ABBREVIATIONS

CPO	Community Programs Officer
GAO	General Accounting Office

CHAPTER 1

INTRODUCTION

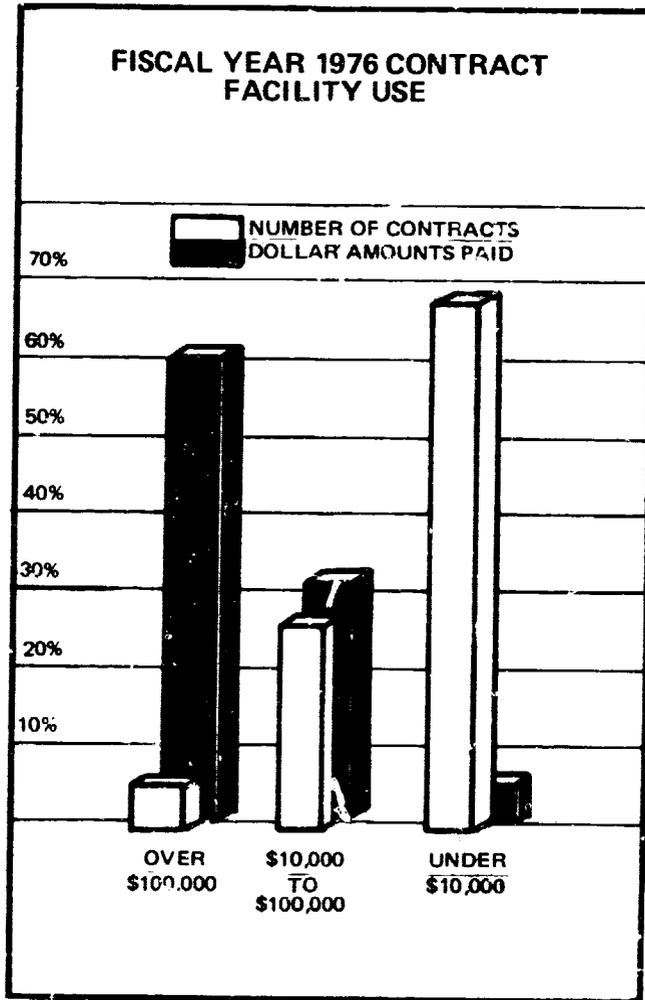
The Attorney General contracts with State prisons, local jails, and halfway houses to house individuals who are awaiting trial for a Federal offense, serving short-term Federal sentences, or being transported between Federal facilities. Non-Federal facilities are also used to relieve overcrowding in Federal institutions, offer protection to Federal offenders in danger in Federal institutions, keep individuals near their home communities, and provide programs not generally available in Federal institutions.

State prison, local jail, and halfway house contracts are for periods of up to 3 years. Negotiation of these contracts and inspection of the facilities are handled by the Bureau of Prisons' Community Programs Officers (CPOs) who are located throughout the country and by the U.S. Marshals Service. ^{1/} In addition, the U.S. Marshals Service is legally responsible for the safekeeping of most of the prisoners and also pays the bills.

During fiscal year 1976 the Federal Government had contracts with more than 1,000 State and local facilities and for the 12-month period ending June 30, 1976, it paid about \$24.6 million for housing an average of 5,000 Federal prisoners a day. Rates paid ranged from \$1.50 a day for a county jail in Tennessee to \$43.50 a day for a county detention center for juveniles in California.

Most of the money was paid to jails and halfway houses in those large metropolitan areas where the need to house prisoners is greatest. About 6 percent of the contract facilities used received over \$100,000 each and accounted for about 62 percent of the payments.

^{1/}At the time of our review, the Bureau was responsible for negotiating all contracts but, starting in fiscal year 1978, the Marshals Service will negotiate most jail contracts pursuant to an agreement between the two agencies.



The cost for using non-Federal facilities is increasing each year. For example, the contract rates renegotiated in the Bureau's north-central region during fiscal year 1976 increased 60 percent. The average cost nationwide has increased from \$8.62 a day per prisoner in 1973 to \$12.88 in 1976. Also, non-Federal facilities are becoming more difficult to find because many jails are overcrowded and often in poor condition.

We discuss the Bureau's problems in finding and contracting for sufficient and suitable space for Federal prisoners and describe actions that have been and could be taken to find alternative solutions. 1/

Our review was conducted at the headquarters of the Bureau and the U.S. Marshals Service and in two of the Bureau's five regions. Chapter 4 details the scope of our review.

1/Information on how these problems affect the Bureau's prison construction program is contained in our report "Federal Prison Construction Plans Should Be Better Developed and Supported," GGD-76-10, April 27, 1976, and a February 1978 staff study, "What Can Be Done About Overcrowding In Long-term Federal Correctional Facilities?" PAD-78-50.

CHAPTER 2

HOUSING FEDERAL PRISONERS IN NON-FEDERAL FACILITIES:

PROBLEMS AND ALTERNATIVES

Housing Federal prisoners in non-Federal facilities is becoming more difficult and costly. Many local jails, due to overcrowding and deteriorating conditions, do not have sufficient space for Federal offenders. The reluctance of some voters to use taxes to build better jails and an absence of funds for such improvements in many local areas further complicate the situation.

The Bureau was generally successful in finding alternate housing for Federal prisoners when forced out of local jails, but this has created additional problems. For example, the Bureau coped with the problem in some situations by housing its prisoners in other jails located greater distances from Federal courts. This action, however, caused the U.S. Marshals Service to incur added costs, time, and inconvenience in transporting prisoners to and from court. And as the incidence of overcrowding continues to increase, other acceptable jails are becoming more difficult to find.

ADEQUATE JAIL SPACE IS DIFFICULT TO OBTAIN

The Bureau is encountering extreme difficulty in finding sufficient and adequate space for Federal prisoners in local jails mainly because they are generally overcrowded and often in poor physical condition.

The Executive Director of the American Correctional Association reported that as of January 1977 over 530,000 men and women were confined in the various Federal, State, and local facilities. Examples of prison statistics included the following:

- The inmate population in Federal facilities (over 28,000 in January 1977) was well over the design capacity of the facilities.
- Over 1,000 inmates were backlogged in Maryland's local jails awaiting space in State facilities.

--Alabama's institutions had a population of 3,096 with another 2,320 State offenders in city and county jails awaiting transfer when space is available.

--Michigan had over 11,000 inmates in space designed for 5,500.

--Georgia had over 12,000 inmates housed in facilities designed for 8,000 and about 2,650 State offenders in county jails.

Temporary space of all kinds was being utilized. Two and three prisoners were sleeping in cells designed for one person. Others were sleeping on floors and in shower rooms and corridors. Temporary housing, such as mobile homes, was being used in Arizona, Arkansas, Louisiana, Michigan, Mississippi, New York, Oklahoma, Pennsylvania, and Virginia. Florida had even used tents and still didn't solve the overcrowding problem.

Jails are not only overcrowded, but are often in poor condition. In April 1976 we reported that many local jails lacked essential security, comfort, sanitation, and privacy for inmates. 1/ (See app. III.) In some cases, the Bureau had to use such jails because it could not find a more suitable place.

Difficulties in the Bureau's north-central and northeast regions illustrate its problems

As of September 1976, the Bureau was having problems obtaining adequate jail space in 12 of the 26 major cities in its north-central and northeast regions. 2/ Since the Bureau could not place Federal prisoners in local jails, it had to place its prisoners in other jails--some as far as 80 miles away from a Federal court. This action increased prisoner handling and security problems for the U.S. Marshals

1/"Conditions in Local Jails Remain Inadequate Despite Federal Funding for Improvements," GGD-76-36, Apr. 5, 1976.

2/A synopsis for each of the major problem cities is included in app. II.

Service, which is the agency responsible for transporting Federal prisoners; it also increased overtime and transportation costs. The Bureau had also lost the use of jail facilities in 11 smaller cities in the two regions but, because it does not have much need for space in those cities, the loss had little impact on Bureau operations.

The Bureau had difficulty finding jails to replace those lost or to serve as backup for those becoming overcrowded. The CPOs we talked to in the north-central region said that some potential replacement jails were also overcrowded and that others simply did not want Federal prisoners. Officials at such jails felt the Federal prisoners were difficult to control and represented potential legal problems through complaints about jail conditions.

Substandard jails are used when better ones are not available. The Bureau's CPOs, who inspect these jails at least annually, considered about 9 percent of the jails used in the north-central region to be substandard because of overcrowding, poor sanitation, or poor physical conditions. They accounted for about 10 percent of the daily average of prisoners housed in local jails in the north-central region during fiscal year 1976. These substandard jails were considered the worst examples and did not include other marginal jails.

Northeast region officials told us that many jails used by the Bureau were overcrowded, but that medical, recreational, and sanitary facilities were adequate.

In those facilities which are extremely overcrowded, such as the Baltimore City Jail, rehabilitation programs and supervision are somewhat inadequate, particularly for prisoners serving short-term sentences. Segregation of juvenile and adult prisoners is also difficult. Judges have described the living conditions in Philadelphia and Boston jails as degrading. About 16 percent of the Federal prisoners housed in northeast region jails during fiscal year 1976 were in Baltimore, Boston, and Philadelphia jails.

ALTERNATIVES FOR PROVIDING SUFFICIENT HOUSING FOR FEDERAL PRISONERS

The Government's four choices for housing Federal prisoners when jail space becomes unavailable are

- contracting with other jails in the surrounding area,
- building and operating Federal facilities,
- providing some type of Federal assistance to local jails to expand and improve their facilities, and
- using excess or underutilized military correction facilities.

Each of the alternatives has advantages and disadvantages, but none will be inexpensive. A more detailed discussion of the merits of each option follows.

Contracting with other available jails

Contracting with jails outside of the localities in which they are needed adds transportation costs to move prisoners to and from the courts, but it may not be as costly as building Federal facilities. For example, the Bureau's planned facility for Detroit is estimated to cost about \$16.6 million to build and about \$25 a day per prisoner to operate at planned capacity. This compares to a cost of \$16.22 a day to contract with local jails if they could provide the necessary space.

Using local jails gives the Federal Government the flexibility of contracting for more space when the need arises and terminating contracts when the need decreases. It is a reasonable method of providing space for Federal prisoners as long as sufficient and suitable space is available. Disadvantages are that the contracts may be terminated or that limitations may be placed on the number of Federal prisoners to be housed if overcrowding occurs.

Building and operating Federal facilities

Constructing federally owned and operated facilities could insure sufficient and suitable space where the need

is greatest. It could also eliminate the problems in relying on local governments, such as

- their not wanting Federal prisoners,
- the necessity of using substandard facilities when there is nowhere else to house Federal prisoners, and
- the inconvenience and cost of transporting prisoners over long distances to attend court.

A 1975 Bureau task force suggested converting existing Federal or commercial space into jail facilities, adding to existing local facilities, or building totally new Federal facilities in selected problem locations. Although new Federal correction facilities have been built in San Diego, New York, and Chicago and others are planned for Detroit and Phoenix, a 1976 Department of Justice task force recommended increased Federal assistance for local jails and opposed building more Federal metropolitan correction facilities.

Detroit seems to be an example where a Federal facility was a viable answer to an overcrowding problem. Other cities, such as Cleveland and St. Louis, may also be possible locations for Federal facilities on a smaller scale because of the Bureau's needs and the circumstances in the cities. Our discussions with U.S. Marshals revealed that most were also in favor of more Federal facilities in metropolitan areas.

One problem with constructing Federal correction facilities in cities could be community opposition. For example, the Bureau had to cancel plans to build a metropolitan correction facility in San Francisco because of citizen complaints.

Bureau should determine types of facilities it could economically build and operate

The Bureau needs to determine whether facilities smaller than those recently constructed or planned could be economically built and operated. The Bureau has been constructing facilities in the 300- to 500-bed capacity range. But statistics on the Bureau's use of non-Federal jails during fiscal

year 1976 indicate only one additional metropolitan area (Baltimore-Washington, D.C. area) that would require a facility of that size. Smaller facilities could alleviate the problem in other metropolitan areas, but a question exists as to whether it would be feasible to build them.

How many facilities would be required if the Federal Government built and operated its own facilities? Nationwide data on the use of non-Federal facilities during the 12-month period ending June 30, 1976, shows there were only 10 locations that averaged 100 or more prisoners a day. Another five could average 100 or more if the prisoners housed in federally operated halfway houses were included. Nine more locations averaged between 50 and 99 prisoners a day. (See map, p. 10.)

Although the Department of Justice adopted a policy of not building more Federal metropolitan correction facilities, we believe the option should be retained because circumstances at each location differ and there may be occasions when such action would be feasible. It may also be feasible to build Federal jails rather than the Bureau's metropolitan correction facilities. Decisions on whether or not to build should be based on documented need and economic feasibility.

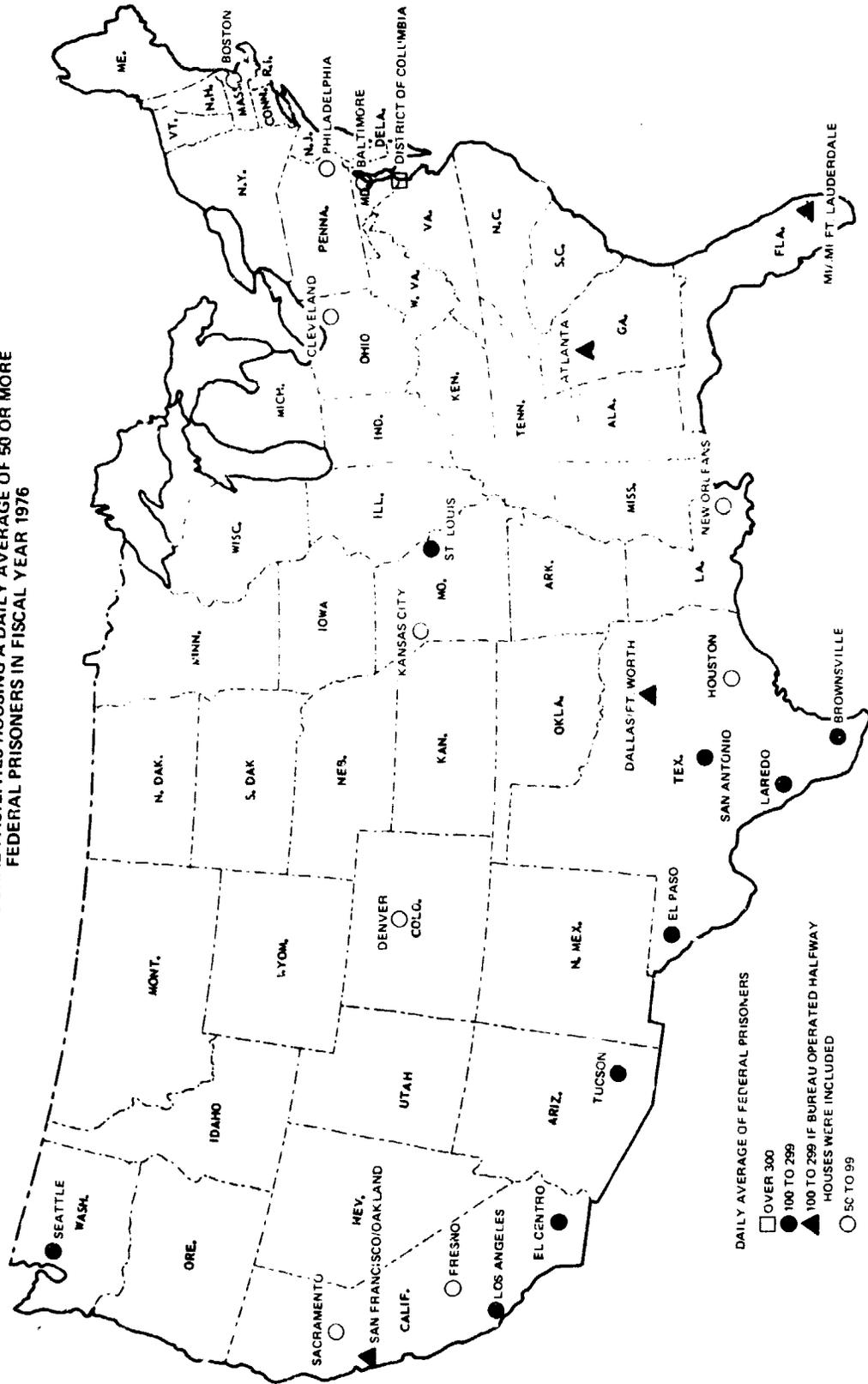
Providing Federal assistance to local jails

Federal assistance for improving and expanding local jails could benefit both the Federal and local governments. The Federal Government could get guaranteed space for its prisoners and the local jails would get badly needed improvements.

Joint ventures between Federal and local governments could be utilized in areas where the Federal need is the greatest and where the local governments guarantee to house Federal prisoners. Some local governments, however, may not desire to enter a joint venture just to aid the Federal Government. Thus, some incentive may be required, such as the Government paying for more than its share of the costs. Joint ventures would require good relations between Federal and local officials and the assurance that the local jails would comply with mutually agreed-upon standards.

There have been mixed reactions to the joint venture approach. Local government officials in some problem cities told us they would be receptive to a joint venture. However,

**NON-FEDERAL FACILITIES HOUSING A DAILY AVERAGE OF 50 OR MORE
FEDERAL PRISONERS IN FISCAL YEAR 1976**



DAILY AVERAGE OF FEDERAL PRISONERS

- OVER 300
- 100 TO 299
- ▲ 100 TO 299 IF BUREAU OPERATED HALFWAY HOUSES WERE INCLUDED
- 50 TO 99

NOTE

ANALYSIS OF COURT AND MAGISTRATE DATA COMPILED IN 1976 FOR THE DEPARTMENT OF JUSTICE TASK FORCE SHOWS THAT MUCH OF THE HEAVY CONCENTRATION OF FEDERAL PRISONERS ALONG THE SOUTHWEST BORDER IS DUE TO AN ABOVE AVERAGE NUMBER OF NARCOTICS AND IMMIGRATION VIOLATIONS

joint ventures were previously proposed for the Cleveland area and considered in Detroit, but arrangements were not made.

A bill currently before the Senate might, if enacted, provide some of the needed funds. On April 6, 1977, the Corrections Construction and Program Development Act of 1977 (S. 1245) was introduced to provide Federal grants for improving State, county, and local prisons. The proposed bill would provide \$150 million for fiscal year 1978 and \$350 million for fiscal year 1979. Funds would be allocated to the States based on their population, and the States would have to provide 25-percent matching funds. At least 75 percent of the funds would be used for construction, acquisition, or renovation, while the remainder could be used for improving correctional programs and practices.

The \$500 million requested is relatively small considering the total number of State and local facilities. Also, much of the money could very well go for improving State facilities (where there is also a very great need) rather than for improving local facilities where the Federal need is greatest. In addition, the proposed grant program does not guarantee that Federal prisoners can be housed in any local jails receiving the grant. This bill could be amended to provide for joint venture projects in those metropolitan areas where the need for Federal prisoner space is greatest. Any such project should guarantee a reasonable amount of space to fulfill Federal prisoner space requirements.

Using available military facilities

While using excess or underutilized military correction facilities offers only a partial solution, it should be seriously considered and pursued by the Department. Military correctional facilities were substantially underutilized in December 1976 and consolidation plans were in process in June 1977. This anticipated reduction of military correction facilities presents an excellent opportunity for the Bureau to consider converting at least some of the space to Bureau use. Although most were either not within reasonable commuting distance from Federal courts or were near locations not having prisoner housing problems, there are several problem areas where the military facilities could be used as a solution.

One such opportunity is in the Philadelphia area where the Bureau has attempted to obtain permission from the U.S. Army to use the Ft. Dix stockade in New Jersey. The stockade was built in 1972 at a cost of \$5 million and can house about 450 prisoners. There are 100 single cells and 16 dormitories which hold 22 prisoners each. The military population in the stockade averaged 22 prisoners during December 1976.

Bureau Regional officials stated that the Department of the Army refused to let the Bureau use the facility because the Department of Defense is considering using the stockade for all military prisoners in the northeastern part of the country. If this happens, the Navy Correctional Center in Philadelphia may become available. According to a Bureau review of the facility, the Navy center has 20 maximum security cells and several dormitories enabling it to hold from 200 to 250 prisoners. Modifications would be needed to provide for additional cells and to improve security, but the Bureau's review of the facility did not include an estimate of the cost.

Another opportunity is in the Baltimore area. The Army facility at Ft. Meade, Maryland, is within 20 miles of the critically overcrowded Baltimore jail facilities. In December 1976 Ft. Meade averaged only 17 prisoners in a facility that can house 196.

CONCLUSIONS

The Bureau has encountered severe problems in finding sufficient and suitable space to house Federal prisoners in local jails and has lost the use of some jails it needs. The main reasons are overcrowding and inadequate jail conditions, but other factors, such as the refusal of local governments to accept Federal prisoners, also influences the problem. These problems may very well increase in the future.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

To assist the Department of Justice and the Congress in formulating a long-range strategy for housing Federal prisoners, we recommend that the Attorney General determine

the most economical long-range solution for each major metropolitan area by

- determining whether smaller Federal facilities could be economically built and operated,
- investigating the possible use of excess and underutilized military correction facilities, and
- identifying instances where the situation could be alleviated through increased Federal assistance.

RECOMMENDATION TO THE CONGRESS

The proposed Corrections Construction and Program Development Act of 1977 would provide funds for the construction, acquisition, or renovation of non-Federal prisons. We recommend that this or similar legislation that may be introduced in the future include incentives for the swift completion of projects in metropolitan areas where the need for Federal prisoner space is greatest. One device would be to provide financial inducements for such projects, such as the reduction of any matching fund requirement, conditional on a guarantee to provide some specified number of spaces for Federal prisoners. The views of the Department of Justice should be sought regarding this and other possible alternatives.

AGENCY COMMENTS

The Department generally agreed with our conclusions and recommendations. (See app. I.) The Department intends to continuously explore the four options for obtaining housing for Federal prisoners discussed in our report. However, the Department reiterated that it has adopted a policy which generally opposes the establishment of additional Federal detention facilities and instead, it intends to improve its Federal assistance to local jails. It has established a Task Force on Corrections to develop a strategy for Federal assistance.

CHAPTER 3

NEED FOR IMPROVEMENTS WHEN CONTRACTING FOR DETENTION SERVICES

The Bureau of Prisons has not followed acceptable contracting practices when contracting with non-Federal jails and halfway houses:

- Federal procurement policies and regulations were not being followed.
- Contracting practices were inconsistent, causing some contractors to be overpaid and some underpaid.
- As much as \$1 million in excess charges was paid annually to the jails because they charged a full day for any part of a day Federal prisoners were housed.

These problems should also be addressed by the U.S. Marshals Service when it begins contracting with non-Federal facilities.

During our review we notified the Bureau by letter of its deviations from Federal Procurement Regulations. The Bureau generally agreed with our findings and promised extensive corrective action, including more training for contracting personnel. The Bureau plans to issue a new contracting manual which identifies applicable Federal Procurement Regulations and the necessary action for meeting them. It also sets out staff contracting responsibilities. Our review of a draft of the manual, however, showed it does not adequately provide for obtaining, evaluating, and using contractor cost data as support for contract rates.

COST DATA NOT CONSISTENTLY OBTAINED

Federal Procurement Regulations require that some form of price or cost analysis be made in connection with every negotiated procurement action. Many Bureau-negotiated contracts did not provide a fair and reasonable basis for negotiating contract rates since they were either not based on cost information or were based on inadequate cost data.

Most Bureau contracts for detention services with state and local jails and halfway houses were negotiated by the Bureau's CPOs. When contractor-proposed daily rates exceeded specified amounts, such as \$8 a day for housing adult males in local jails, Bureau guidelines required contractors to support their costs with itemized statements. These cost statements were intended to provide a basis for negotiating contracts and determining the allowability of contracting costs.

The following table shows the results of our review of 101 of 136 selected contracts negotiated in the Bureau's North-central and Northeast regions. ^{1/} Although under Bureau guidelines itemized cost data were required for 101 of the contracts, Bureau negotiators did not get cost statements from 45 contractors and 21 others were permitted to provide a variety of unitemized cost information that could not be properly evaluated.

<u>Annual contract cost</u>	<u>Contracts requiring cost statements</u>	<u>Itemized cost statements provided</u>	<u>Cost data provided but not itemized</u>	<u>No cost data</u>
Under \$10,000	10	2	1	7
\$10,000 to \$100,000	72	23	18	31
Over \$100,000	<u>19</u>	<u>10</u>	<u>2</u>	<u>7</u>
Total	<u>101</u>	<u>35</u>	<u>21</u>	<u>45</u>

Two Bureau negotiators stated that they did not require additional cost data because they rely on the integrity of the people preparing the data; however, contractors prepared cost estimates that were not accurate and did not always know what costs were allowable.

^{1/}The remaining 35 contractors were not required to submit any cost data according to existing Bureau guidelines because the daily rates were less than the specified limits.

According to Bureau and contractor personnel, contractors do not provide required or sufficiently detailed cost data for a variety of reasons, such as when

- a contractor claims that cost information is not readily available, or if available, cannot easily be attributed to Federal prisoners;
- contractors are unaware of either the type or extent of information required because the Bureau does not have a uniform format to either guide contractors or to identify allowable costs, except in general terms; and
- jail contractors know they are in a dictatorial position because they are sole providers of a scarce service. As a result, some foster an indifferent "take it or leave it" attitude and Bureau negotiators are reluctant to pressure the jails for more cost data.

Forty-one of the 45 contractors that did not submit required cost data were in the northeast, region, which had a regional policy that disagreed with Bureau guidelines. Region officials stated that cost statements were required only when the daily rate exceeded \$18 rather than \$8 because the region is a high cost area, and an \$18-a-day rate was considered fair and reasonable. In one instance no cost statement was obtained to support a daily rate of \$19.97 for a contract expected to exceed \$400,000 annually. The contractor provided only an inmate per capita cost with no explanation as to its composition.

COST DATA NOT CONSISTENTLY EVALUATED OR USED BY NEGOTIATORS

Although Federal procurement policy requires that federally assisted programs pay their fair share when using State and local facilities, cost information submitted by contractors did not always support the rates charged for housing Federal prisoners. Some contractors submitted inaccurate costs and others included unallowable costs. Still others did not include cost elements which should have been included. Thus, some contractors were either overpaid or underpaid.

The inequitable conditions existed because Bureau negotiators (1) did not evaluate contractor cost data, (2) were not consistent in negotiations among the various contractors, and (3) in their concern to negotiate the lowest possible rate, negotiated rates lower than those supported by contractor cost data. Other contributing factors included the absence of a standard format for cost statements, inadequate guidelines to assist contractors in completing cost statements, lack of a standard method for computing occupancy rates, and lack of guidelines which direct contractors to use the most recent actual costs in lieu of anticipated or budget costs.

Our analysis of the cost data submitted for 34 contracts expected to cost over \$50,000 a year showed that

--in 18 cases the cost data was either not sufficiently detailed to permit an evaluation or not provided at all and

--in 12 other cases the cost data was itemized but the allowability of certain cost elements was questionable.

The remaining four had cost statements that were sufficiently detailed and included allowable costs.

To further evaluate the reasonableness of contractor cost support, we visited 17 of the contractors that had not submitted cost data or had submitted insufficient or questionable cost data. Seven had claimed unallowable costs or had used inappropriate calculations in arriving at the contract rate. These errors increased the daily rates by \$1.20 to \$4.00 a day for six contracts and reduced the rate by \$0.50 cents for the other. There appears to be no legal basis for recovery of the excess costs since the cost data had not been certified and the contracts were for fixed daily rates. Another contractor still could not provide cost data, two more had allowable costs that were denied by the Bureau negotiator, and seven had sufficient support for their costs.

The following examples illustrate some of the errors:

--A northeast region jail claimed the cost of transporting prisoners and guarding them at local courts although these services are not provided for Federal prisoners. The contractor also claimed unallowable interest costs. These errors caused the contract rate to be overstated by \$1.65 a prisoner day, or

about \$44,000 a year based on actual Federal use of the jail in fiscal year 1976.

- A north-central regional jail contractor overstated costs for communications, uniforms, data processing, office supplies, and custodial services. Additionally, the contractor claimed an 80-percent occupancy rate while the actual rate was at or near 100 percent. As a result, the contractor's rate was overstated by about \$4.00 per prisoner day or approximately \$136,000 based on use in fiscal year 1975 and \$34,000 in fiscal year 1976.
- The contract rate for a north-central region halfway house contract was based on a cost statement showing actual costs and occupancy for the 6 months prior to the time it was submitted to the Bureau. The Bureau negotiator reviewed and questioned some costs and arbitrarily decided that an \$18.50 daily rate was appropriate rather than the \$22.87 rate requested; however, the contractor was allowed to collect an additional \$15 a week from the residents. The contractor's costs, however, were reasonable and allowable. Thus, the rate approved by the CPO and the amount collected from the residents do not cover actual program costs. The total underpayment amounts to about \$10,000 a year based on Bureau use during fiscal year 1976.

Our review of 77 contracts costing between \$10,000 and \$50,000 annually disclosed a wide variance in the way Bureau negotiators determine contract costs. Rates for 42 contracts were not based on any type of documented price or cost information. Another 19 contractors were granted rates they requested with little or no effort by Bureau negotiators to evaluate costs. The 16 remaining contractors were granted rates less than they requested although higher rates were justified in some cases.

Bureau negotiators were also inconsistent in determining the propriety of contract costs claimed. For example:

- Federal funds received by one contractor were treated as a reduction of costs, but another's costs were not reduced even though a Federal grant accounted for about half of its revenue.

--Vehicle operating costs were allowed for one contractor, but another did not claim this type of cost because it was instructed otherwise by the Bureau.

Bureau negotiators told us they were concerned about the cost of housing Federal prisoners, and two said they try to get the lowest rate possible for the Government. A cost-conscious attitude is commendable, but negotiations with contractors should be equitable and based on proper analysis of costs.

JAIL BILLING PRACTICES NEED CORRECTION

Bureau jail contracts do not specify the manner in which contract rates are to be applied. Consequently, jails are paid too much because they charge a full day for any part of a day Federal prisoners spend in their jails (e.g., the Federal Government is charged two days for a prisoner placed in a jail one evening and removed the next morning.) Our review of monthly billings submitted by jails during fiscal year 1976 showed these excessive payments could amount to as much as \$1 million annually.

The Bureau's standardized jail contract form contains no provisions for the manner in which the contractors are to bill for their services. Discussions with jail officials and Bureau negotiators disclosed that the jails were orally instructed by Bureau staff to bill for a complete day for any part of a day Federal prisoners are in their jail.

Our examination of the billing practices at 22 jails showed that each was paid an excessive amount when the daily method of payment was compared to a more appropriate quarter-day per diem method of billing. For example, one jail housed 137 Federal prisoners during June 1976. Ninety of these stayed only one night during the month and in each case the jail charged for 2 days. The remaining 47 prisoners were in the jail from 2 to 30 nights. The only prisoners for which the Government was not overcharged were those that remained in the jail for the entire month.

The excessive payments averaged 4.69 percent of the amounts billed by the 22 jails, and we believe they are representative of billing practices throughout the country. The excessive payments ranged from less than 1 percent to 34 percent and generally varied according to the average length of stay by Federal prisoners.

The Bureau paid \$19.8 million from its "Support of United States Prisoners" appropriation to house Federal prisoners in about 700 State prisons and local jails during the year ending June 30, 1976. The Immigration and Naturalization Service, which also uses Bureau jail contracts and is billed in the same manner, paid another \$2.4 million to detain alien prisoners. Applying the average 4.69 percent rate of excessive payments to the \$22.2 million paid local jails for housing Federal prisoners indicates that the annual excessive payment could be as high as \$1 million.

One jail official suggested that the jails not bill for the day prisoners are released if the period of confinement is two or more calendar days. Recomputing the billings for the 22 jails using this method showed that it resulted in a greater reduction in charges than the quarter-day per diem method. This method would be the easiest for the jails to compute and the most advantageous to the Government. However, the quarter-day per diem method is the most equitable for all parties and would provide an equitable payment for the actual time Federal prisoners spend in the jails. The following schedule compares the two billing methods.

<u>Region</u>	<u>Number of jails reviewed</u>	<u>Amounts billed</u>	<u>Extent of reduced charges</u>			
			<u>Quarter-day per diem method</u>	<u>(Per-</u> <u>(amount) cent)</u>	<u>Drop last day method</u>	<u>(Per-</u> <u>cent)</u>
North-central	12	\$ 67,456	\$4,237	6.28	\$4,590	6.80
Northeast	10	<u>117,203</u>	<u>4,422</u>	<u>3.77</u>	<u>5,015</u>	4.27
Total	<u>22</u>	<u>\$184,659</u>	<u>\$8,659</u>	4.69	<u>\$9,605</u>	5.20

Officials at the jails we tested had mixed feelings about changing to a quarter-day per diem basis. Officials at 10 jails were receptive to the billing procedure and generally considered it a fair method to all parties involved. Officials at the other 12 jails were not receptive to the proposed procedure. The principal reason for their objections was that additional administrative time or staff would be needed to compute the bills. Based on the time we spent in recomputing the jail billings in our review, the additional time required was not a significant factor and should not take more than 2 to 8 additional hours for each contractor each month. Some jails, however, use computers to prepare billings, and some costs will have to be incurred to change the computer programs.

We also found underbillings and/or overbillings at six of the jails we visited in the northeast region. These mistakes were due to clerical errors and were not detected by the Marshals Service. These errors ranged from an under-billing of \$220 to an overbilling of approximately \$7,000.

CONCLUSIONS

The Bureau's contracting practices with non-Federal jails and halfway houses have not followed Federal Procurement Regulations in the past. In addition, its contracting practices were inconsistently applied, causing some contractors to be overpaid and some underpaid. The Bureau has developed new contracting guidelines and will provide more training for contracting personnel to help correct these conditions. However, it still needs to insure that contractor cost data is obtained, evaluated, and used in determining contract rates.

The Bureau also permitted local jails to charge excessive amounts for housing Federal prisoners. To correct this, the Attorney General needs to include in the standardized contracts an acceptable billing procedure which is equitable for all parties.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

The Attorney General should insure that contracting procedures for the housing of Federal prisoners require that

- contract files for service costing less than \$10,000 annually contain memorandums that verify the reasonableness of contractor costs;
- contractor proposals for service costing more than \$10,000 but less than \$100,000 annually be accompanied by cost information sufficiently detailed to permit an adequate basis for contract negotiations and cost evaluations;
- contractor proposals for service expected to exceed \$100,000 annually include detailed and certified pricing data to assist Bureau and U.S. Marshals Service personnel in contract negotiations and cost evaluations; and
- standardized contracts contain a definition of acceptable billing methods that will eliminate excessive charges for the amount of time prisoners are kept in local custody.

AGENCY COMMENTS

The Department said that contracting personnel will obtain contractor cost data where possible and, where not possible, document the reasons. In addition, the Department agreed to revise its billing practice for contractors. (See app. I.)

CHAPTER 4

SCOPE OF REVIEW

Our review of the Bureau's use of State, local, and private facilities to house Federal prisoners included an examination of Bureau policies, procedures, and records. We also interviewed Bureau personnel; U.S. Marshals, who are responsible for the custody of prisoners prior to conviction; and State and local correction officials.

We evaluated Bureau activities at its central office headquarters and at two of its five regional offices--Kansas City, Missouri, and Philadelphia, Pennsylvania. Our field work was conducted between September 1976 and March 1977.

To assess the Bureau's problems in locating space for Federal prisoners, we reviewed Bureau records and interviewed Bureau personnel, U.S. Marshals, and selected problem cities' local jail officials. These cities were Baltimore, Md; Boston, Mass; Cleveland, Ohio; Detroit, Mich; Philadelphia, Pa; St. Louis, Mo; and Wichita, Kans.

Bureau contracting practices were evaluated based on Federal Procurement Regulation requirements. We reviewed Bureau contract records and selected facilities' records, discussed negotiation practices with responsible Bureau staff, and interviewed local jail and halfway house officials.

Most of our work was concentrated on contractors paid more than \$50,000 during fiscal year 1976. We evaluated cost data submitted by the contractors to support the negotiated rates and, for selected contracts, obtained additional cost data from the contractors. Our evaluation of contractors paid less than \$50,000 was made mostly from Bureau contract records.

A listing of the non-Federal facilities visited is included as appendix IV.



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

DEC 27 1977

Address Reply to the
Division Indicated

Refer to Initials and Number

Mr. Victor L. Lowe
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

This letter is in response to your request for comments on the draft report entitled "Housing Federal Prisoners in Non-Federal Facilities is Becoming More Difficult."

We are in general agreement with the conclusions and recommendations of the report and commend GAO for the thoroughness and accuracy of the material presented. As the report points out, when suitable jails are not available near Federal courts, the Bureau of Prisons (BOP) contracts with the nearest suitable facilities. In some instances, these alternative facilities might be located 50 to 100 miles from the court of jurisdiction. Not only is this method of housing Federal prisoners cumbersome and expensive, it raises questions regarding the defendants' constitutional rights with respect to reasonable access to attorney and family visitations, etc.

GAO recommends that the four options explored or implemented by the Bureau of Prisons (BOP) for obtaining needed space for Federal prisoners--contracting with other jails in surrounding areas, building and operating Federal jails, providing funds for local jail improvements, and obtaining available military correction facilities--continue to be explored. It is the Department's intent to continuously explore all of these options. When space is needed, BOP strives to utilize local jails or jails in the immediate surrounding area. Community program officers maintain a constant check of available space in their respective areas of responsibility. BOP conducts a semi-annual survey of space, and recently made an extensive review of the nation's available sites, including military sites, in an attempt to locate any facilities which could be used as alternatives to new construction.



While the option of building and operating smaller Federal facilities remains open, the Department has adopted a policy which generally opposes the establishment of additional Federal detention facilities. To support this policy, the Department intends to improve its Federal assistance programs to local jails. However, the Department does recognize the possibility that special and unique circumstances peculiar to a locality may arise and the option to build should be considered.

The basic purpose of the Department's policy not to build is to dissuade Federal and local officials from exerting pressure to construct additional Federal detention facilities in their respective cities, which would result in a nationwide, federally-owned and operated jail system. Such a system would serve only a small portion of the nation's detention population, while expending an inordinate amount of the taxpayer's dollar to establish and maintain it. The Department cannot use effective persuasive tactics to continue using local detention facilities if the Federal judges and local authorities are aware that a Federal facility will be built if local facility doors are shut to Federal detainees. If the number of detention facilities increases, these pressures would undoubtedly intensify. As more metropolitan correctional facilities and detention facilities are constructed as "exceptions" to the policy, the viability of that policy would most certainly diminish. Moreover, BOP has extensively explored the possibility of constructing smaller facilities, but this option presently has serious shortcomings because operating costs tend to accrue rapidly when facilities are designed for less than 500 persons. It is possible that the economic benefits of this option could change, especially if contract rates continue to increase, alternative space in the areas involved is completely unavailable, and only limited Federal assistance to State and local systems is forthcoming.

During fiscal year 1977 BOP seriously pursued and is continuing to pursue the option of using excess, underutilized or unoccupied military facilities for housing Federal prisoners. Explorations to date indicate that the Department of Defense plans to redistribute their penal populations in a more economical manner. Any residual

space that might become available for BOP to use will be considered. However, such space may prove uneconomical if it lacks sufficient capacity to justify the per capita operating costs that would be required.

The option which the Department most strongly supports is the development of a national corrections strategy to upgrade corrections at all levels of government. In this regard, we are aware of the Corrections Construction and Program Development Act of 1977 introduced in the Senate (S. 1245) in April, and the Department has established a Task Force on Corrections to develop a strategy which will take into consideration the form and the extent of Federal assistance to be administered to State and local governments to improve their correctional systems. A possible strategy is to take the position that any funding for construction or renovation be related to the implementation of programs and services within the facilities, and that the design and planning of both facilities and programs be based on the standards which have been developed by the American Correctional Association's Accreditation and Certification Project and the American Medical Association's Medical Care/Health Services Project. Both projects were funded by the Law Enforcement Assistance Administration (LEAA). In addition to the area of medical care/health services, the standards concern parole, adult correction residential services, probation, adult institutions, and jails. The Department does plan to have a modest construction/renovation program as one of its discretionary programs in fiscal year 1978. However, inasmuch as the funding will only approximate \$10 million, it will not begin to meet the needs represented by the GAO draft report.

In a closely related endeavor, LEAA, in coordination with the Bureau of the Census, is exploring the problems of overcrowding in jails in Phase II of its Correctional Facilities Survey. This project will be completed in March 1979, and will provide further information about jail capacities and projected populations.

The comments in the report pertaining to contracting are fairly presented and factual. The Bureau of Prisons has developed a new contracting manual which now includes policies and instructions that are in full compliance with the Federal Procurement Regulations.

[See GAO note, p. 27.]

[See GAO note, below.]

We will also make every effort to obtain cost data to support per diem rates as a basis for evaluating and negotiating contract rates. In the larger, more sophisticated metropolitan areas, we expect that suitable cost data will be readily available. In smaller, less sophisticated localities, we expect some difficulties. In such instances our contract representatives will assist in developing the best cost-data that is possible and document their efforts to comply fully with contracting guidance included in the contract manual. As the report indicates, the U.S. Marshals Service assumed a significant portion of the contracting function in fiscal year 1978. They have been advised of the past deficiencies in administration of the program, and BOP has agreed to provide assistance and training to their staff in following acceptable contracting policies and procedures outlined in the BOP contracting manual.

We appreciate the opportunity to comment on the draft report. Should you have any further questions, please feel free to contact us.

Sincerely,



for Kevin D. Rooney
Acting Assistant Attorney General
for Administration

GAO note: Comments deleted so as not to disclose the Department's negotiating strategy.

NORTH-CENTRAL AND NORTHEAST REGIONS' PROBLEM CITIESNORTH-CENTRAL REGIONDetroit

Overcrowding in all Detroit area jails has caused the Bureau to convert part of its Milan, Michigan, prison into a temporary jail to house up to 150 prisoners. This situation developed over the past 5 years with the Bureau moving from one jail to another until it finally ran out of jails.

The problem started in May 1971 when a three-judge panel of the local county court ordered the Wayne County Jail in Detroit, which was used extensively by the Bureau, to reduce its jail population. The Bureau then had to use other jails in the area. Next it lost the St. Clair County, Michigan, jail in August 1973 when the Bureau refused to pay the county a requested increase from \$5.00 a day to \$13.75 a day. At about this same time, Oakland County had completed a new jail and had excess space. The Bureau used the Oakland County Jail until overcrowding began to force it out. The Bureau then began using its own facility at Milan, about 40 miles from Detroit.

The Bureau is planning to build its own facility in downtown Detroit as a long-range solution. In the 1978 budget, the Department of Justice estimated construction costs to be about \$16.6 million.

Cleveland

The Cuyahoga County Jail was used to house Federal prisoners until September 1975 when the county canceled the contract because a Federal judge ordered an immediate decrease in the population. The loss of this jail caused the U.S. Marshals to travel up to 75 miles one way to house prisoners in outlying jails. The Marshals Service estimated it cost an additional \$47,000 a year to transport prisoners to and from Cleveland. A new county jail was opened in Cleveland in June 1977, but it was expected to provide only 20 to 25 of the 40 to 65 spaces needed for Federal prisoners.

Toledo

The Bureau lost the use of the Lucas County Jail in Toledo in September 1971 because a Federal judge ruled that the jail was unacceptable. The county then built a new jail and the Bureau entered a new contract with the county

effective October 1976. In the meantime the Bureau had to use other jails in the area and incurred added transportation costs.

St. Louis

In July 1973 a Federal judge ruled that the St. Louis municipal jail, which the Bureau was using, was unfit for Federal prisoners and ordered the Bureau to stop using it. Since then the Bureau has used the St. Clair County, Illinois, jail located about 17 miles from St. Louis. The Bureau's chances of returning to St. Louis are not good because the voters have already defeated two bond elections to finance a new jail. A city representative told us that the city would be receptive to building a new jail with Federal funds and, in return, would guarantee to house Federal prisoners.

Minneapolis

The Hennepin County Jail notified the Bureau in February 1976 that the jail would no longer accept Federal prisoners because it was being remodeled. The remodeling was expected to take about 2 years. In the meantime, the Bureau had to place its prisoners in other nearby jails.

Milwaukee

The Bureau had not used a local jail since the early 1960s because the county jail was inadequate and the city's facilities were not suitable. Thus, Federal prisoners were placed in nearby counties.

Wichita

In September 1976 the U.S. Marshal for Kansas withdrew all Federal prisoners from the Sedwick County Jail in Wichita and placed them in other area jails. This action was taken primarily because the jail was overcrowded. Also, the food, inmates' personal hygiene, and jail sanitation were considered poor. The county was planning to reopen another facility which could again make it possible to house Federal prisoners in the county jail.

NORTHEAST REGION

Baltimore-Washington, D.C. area

Problems in the Baltimore-Washington, D.C., area stem from overcrowded conditions in the local jails. The most acute shortage of space is in Baltimore, Maryland. The

Federal prisoner population there is about 140. The Baltimore County Jail refused to contract with the Bureau because the Bureau will not include in the contract a provision for liability for damages from legal actions brought against the jail by Federal inmates.

The Baltimore City jail is extremely overcrowded. It has a capacity of 1,200 prisoners but the population frequently reaches 1,800. The jail limits the number of Federal prisoners to about 85. According to the U.S. Marshal, Federal judges sometimes request that young prisoners not be confined there for fear that they may be molested.

The remaining prisoners are housed in three county jails located between 22 and 75 miles from Baltimore. These jails are also overcrowded and limit the number of Federal prisoners that can be housed.

In Washington, D.C., there are about 400 Federal prisoners which are housed primarily in the District's jail system. A new jail was recently constructed to replace the old facility but, because it is full, the old facility is still being used. About 140 Federal prisoners are still being housed in the old facility.

Philadelphia

In Philadelphia, the Court of Common Pleas ruled, following a lawsuit by an inmate, that the Philadelphia prison system is a "cruel, degrading, and disgusting place, likely to bring out the worst in man." The court held city officials responsible for administering unconstitutionally cruel and unusual punishment by incarcerating persons in such conditions.

Subsequently, a representative of the court was appointed to study the problems in the prison system. He issued a report which included the following recommendations to upgrade the jail conditions:

- No Federal prisoners, other than inmates detained for immediate court appearance, will be housed in the prison system.
- Each inmate will have a private cell.
- Women and juveniles will be removed from the institution.

--Clean, adequate clothing, bedding, and personal hygiene items will be supplied to each inmate at all times.

In accordance with the recommendations, the Bureau is limited to a maximum of 30 prisoners. Other prisoners are housed in three surrounding county jails located between 25 and 80 miles from the Federal court.

According to the Chief Deputy U.S. Marshal in Philadelphia, prisoners are often transferred out of the Philadelphia jail to another one in order to keep the number of prisoners within the limit. The same prisoners may be transferred in again if they have to appear in court. Estimates are that about 125 staff days per month in prisoner handling time could be saved as well as about 85 staff days in overtime if a single detention facility were available in the area.

Both Bureau regional officials and the U.S. Marshal believe that additional space in the Philadelphia area is needed. The Marshal believes a Federal detention center is preferable. At one time the Bureau planned to build a Federal facility in Philadelphia, but construction funds were diverted to other projects because there was not sufficient need for a facility as large as the Bureau wanted to build.

A city representative stated that the city has no plans to build new facilities or to expand existing ones and that capital construction funds have been budgeted into the 1980s. He said that the city would be interested in a subsidy for jail construction and would be willing to accept additional Federal prisoners in return.

Boston

In June 1973 a Federal judge ruled that the Suffolk County Jail in Boston was in such poor condition that it violated the constitutional rights of inmates and should be shut down. Double cell occupancy was also prohibited.

The County was under court order not to place any new prisoners in the jail after November 1, 1976. The county had to obtain a new jail or rental space for additional prisoners after that date. The current prisoner population was to have been decreased via attrition.

While the jail was still open, Federal prisoners have been excluded since October 1976. About 30 Federal prisoners a day, most of whom were awaiting trial, were housed in the

Suffolk County jail prior to October 1976. The exclusion of Federal prisoners from the facility has necessitated increased usage of four other county facilities located as far as 50 miles from Boston. The U.S. Marshal in Boston stated that this has significantly increased transportation and overtime costs.

A Suffolk County official stated that current county and city officials have not taken a position on a joint venture or any type of Federal jail construction assistance. He also stated that a plan to build a new jail complex at the present county jail site was voted down by the city council. The plan for this facility had been approved by the National Clearinghouse for Criminal Justice Planning and Architecture.

Subsequently, the city council approved \$1.5 million for architectural plans for a new facility. However, no site was specified. The size of the facility is estimated to be 250 cells for pretrial prisoners. There is also a possibility that sentenced prisoners will be housed in the same jail complex. In this eventuality, the size of the complex is estimated to be 450 cells. County officials estimate that it will cost somewhere between \$35,000 and \$50,000 per cell.

New York

In 1975 the Bureau opened its Metropolitan Correctional Center in New York City which houses convicted Federal offenders serving short sentences and persons awaiting Federal trial. It cost about \$15 million and was designed to hold 389 prisoners in single cells and another 60 in dormitory accommodations. Estimated fiscal year 1977 operating costs were about \$4.8 million.

Overcrowding began very soon after the center was opened, and the Bureau resorted to placing two persons in cells designed for only one. In January 1977 a Federal judge ruled against this practice. Although the Bureau is appealing the order, the Bureau's northeast regional director stated that if the appeal is rejected, it could seriously affect Federal, State, and local facilities.

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

CONDITIONS IN LOCAL JAILS REMAIN
INADEQUATE DESPITE FEDERAL
FUNDING FOR IMPROVEMENTS
Law Enforcement Assistance
Administration
Department of Justice

D I G E S T

This report raises questions concerning whether Law Enforcement Assistance Administration funds should be spent to improve local jails that remain inadequate even after Federal funds are spent. This lack of progress in improving local jails is disconcerting.

A GAO review of conditions in 22 local jails in Ohio, Iowa, Louisiana, and Texas showed that overall physical conditions of the jails and the availability of services remained inadequate. The communities are identified in appendix II.

The problem calls for national leadership from the Law Enforcement Assistance Administration when Federal funds are requested. (See pp. 38 and 39.) Direction from the Congress is needed to indicate the extent to which the block grant concept allows the Law Enforcement Assistance Administration and the States to adopt agreed upon minimum national standards when using Federal funds for certain types of projects. (See p. 41.)

To date, there are no nationally acknowledged standards to be applied in determining whether physical conditions are adequate and whether sufficient services are available in local jails. (See p. 10.) In the absence of positive actions at all levels of government, the Federal courts in some localities have mandated standards to be met by individual jails. (See app. I.)

The Attorney General should direct the Administrator of the Law Enforcement Assistance Administration to develop, in conjunction

April 5, 1976
GGD-76-36

with the States, standards that must be met if Federal funds are to be used to improve the physical conditions of local jails.

The Attorney General should also direct the Administrator to deny block grant funds for use in improving local jails if an applicant does not submit a plan which will bring the jail up to the minimum standards regarding physical conditions developed with and agreed to by the States. (See p. 39.)

Only 29 to 76 percent of the desirable characteristics for local jails cited by criminal justice experts were present in the 22 local jails GAO visited. (See p. 19.) For example:

- Inmate security and safety did not always exist.
- Nine local jails and one State unit did not have operable emergency exits.
- Five jails and the same State unit did not have fire extinguishers.
- Three had cell doors which did not lock, although doors to cell blocks did.
- All but four jails had multiple occupancy cells.
- Nine did not provide matron service to supervise female inmates 24 hours a day.
- Sanitary conditions were inadequate.
- Elementary commodities (toothpaste, razors, and clean bedding) frequently were in short supply or absent.
- Four jails had cells which either did not contain toilets or did not have ones which worked.
- Eating space in 16 of the 22 jails was either in the cells or in the cell block, with sanitary facilities in full view.

--Only 11 jails had visiting space separate from the cells; only 6 provided space where inmates could converse privately with visitors, but generally private space was provided for conferences with attorneys.

--Five jails did not have a private area to search the prisoners. (See ch. 3.)

Services provided inmates in the local jails were inadequate. The low number of offenders incarcerated in the jails for long periods makes it impractical to develop sophisticated service programs; nevertheless, some services should be provided.

Generally, jail administrators had not shown any initiative in trying to use community service agencies or volunteers to provide the inmates some minimal services. Moreover, neither the Law Enforcement Assistance Administration nor the States had developed any guidelines requiring jails receiving Federal moneys to begin such actions.

More services could be provided because, in most localities, community resources were available to provide some services to inmates. Sixty-three percent of the local organizations visited had not been contacted by jail administrators. Yet, many were willing to provide some services.

As a minimum, local jails should consider either hiring a counselor or using a volunteer to discuss inmates' problems with them and refer them to community service agencies for help once they leave the jails. (See ch. 4.)

The Attorney General should also direct the Administrator of the Law Enforcement Assistance Administration to

--establish minimum standards in conjunction with the States relating to services that should be provided and the types of community assistance jail administrators should seek and

--use the Administration's regional offices to encourage State and local officials to seek out community resources and to suggest that States require localities seeking funds to improve jails to specify what services are offered and available in the community.

The Department of Justice generally agreed with GAO's conclusions and recommendations and said that the Law Enforcement Assistance Administration recognizes the leadership it must provide and plans to use every resource within the framework of the block grant concept to improve local jail conditions. (See app. VI.) The specific actions contemplated by the Law Enforcement Assistance Administration, including making the upgrading of jails a national priority program, enacting new planning requirements, and enforcing more adequately certain State planning requirements, should help to assure that Federal funds are used to improve local jail conditions.

However, the Department stated that rather than developing agreed upon minimum national standards, it will encourage each State to establish minimum standards. Such a proposal would not adversely affect local jails in progressive States and localities. They would probably establish acceptable standards. But what about States less willing to change? One way is to place a condition on the use of appropriate Federal funds. Developing agreed upon minimum standards could facilitate positive changes in such localities should they choose to use Law Enforcement Assistance Administration money for local jails.

Thus, GAO recommends that the cognizant congressional legislative committees discuss with the Justice Department whether the block grant concept allows the adoption of agreed upon minimum standards to be applied nationally for federally funded projects or whether additional clarifying legislation is needed. (See p. 41.)

GAO note: Page references refer to our report GGD-76-36.

NON-FEDERAL FACILITIES WE VISITEDTO REVIEW CONTRACT COST OR BILLING DATASTATE AND LOCAL DETENTION
AND CORRECTION FACILITIESNorth-central region

Franklin County Jail, Columbus, Ohio
 Genesee County Jail, Flint, Mich.
 Hennepin County Jail, Minneapolis, Minn.
 Jackson County Jail, Kansas City, Mo.
 Kansas Correctional Institution for Women, Lansing,
 Kans. 1/
 Kent County Jail, Grand Rapids, Mich.
 Mahoning County Jail, Youngstown, Ohio
 Montgomery County Jail, Dayton, Ohio
 Oakland County Jail, Pontiac, Mich.
 St. Clair County Jail, Belleville, Ill.
 Sedgwick County Jail, Wichita, Kans.
 Summit County Jail, Akron, Ohio
 Wyandotte County Jail, Kansas City, Kans.

Northeast region

Alexandria City Jail, Alexandria, Va.
 Allegheny County Jail, Pittsburgh, Pa.
 Baltimore City Jail, Baltimore, Md.
 Delaware County Prison, Thornton, Pa.
 Gloucester County Prison, Woodbury, N.J.
 Harford County Detention Center, Bel Air, Md.
 Norfolk County House of Correction and Jail, Dedham,
 Mass.
 Philadelphia Prison System, Philadelphia, Pa.
 Plymouth County House of Correction and Jail,
 Plymouth, Mass.
 State of Connecticut, Department of Correction,
 Hartford, Conn. 1/
 Suffolk County Jail, Boston, Mass.

HALFWAY HOUSESNorth-central region

Dismas Clark Foundation, St. Louis, Mo.

1/Facilities not included in our test of billings.

Heartline, Inc., Detroit, Mich.
Volunteers of America Residential Center,
Minneapolis, Minn.

Northeast region

Bucks County Rehabilitation Center, Doylestown, Pa.
Bureau of Rehabilitation of the National Capital Area,
Washington, D.C.
Connecticut Halfway House, Inc., Hartford, Conn.
Massachusetts Half-Way Houses, Inc., Boston, Mass.

PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of Office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF JUSTICE</u>		
ATTORNEY GENERAL OF THE UNITED STATES:		
Griffin B. Bell	Jan. 1977	Present
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975
Robert H. Bork, Jr. (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
DIRECTOR, BUREAU OF PRISONS:		
Norman A. Carlson	Mar. 1970	Present